

AS

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-162-C - ORDER NO. 97-670
AUGUST 5, 1997

IN RE: Application of Tel-Save, Inc. for a) ORDER
Certificate of Public Convenience and) APPROVING
Necessity to Provide Local Exchange) CERTIFICATE TO
Service.) PROVIDE LOCAL
) SERVICE

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the application of Tel-Save, Inc.¹ ("Tel-Save" or "the Company"). The Application requests that the Commission grant Tel-Save a Certificate of Public Convenience and Necessity to allow Tel-Save to provide resold and facilities-based local exchange telecommunications services in the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1996), and the Regulations of the Commission.

By letter dated April 28, 1997, the Commission's Executive Director instructed Tel-Save to publish, one time, a prepared Notice of Filing and Hearing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing and Hearing was to inform interested parties of

1. Tel-Save's initial Application was filed in the name of Tel-Save, Inc. d/b/a The Phone Company. However, by letter dated July 2, 1997, Tel-Save amended its Application to withdraw the trade name from its Application.

the manner and time in which to file the appropriate pleadings for participation in the proceedings and to provide notice of the hearing date on this matter. Tel-Save complied with this instruction and provided the Commission with proof of publication of the Notice of Filing and Hearing. Petitions to Intervene were received from BellSouth Telecommunications, Inc. ("BellSouth") and the South Carolina Telephone Coalition ("SCTC").

A hearing was convened on July 16, 1997, at 10:30 a.m. in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. Tel-Save was not represented by counsel. The Commission Staff ("Staff") was represented by Florence P. Belser, Staff Counsel. BellSouth did not appear at the hearing.

Prior to the hearing, Tel-Save submitted a letter dated July 2, 1997, in which Tel-Save stated that it was amending its Application by withdrawing the Company's trade name or "d/b/a The Phone Company." Tel-Save informed the Commission that it should be known as "Tel-Save, Inc."

Also prior to the hearing, Tel-Save and the SCTC executed a Stipulation dated July 7, 1997, and the Stipulation was filed with the Commission. As a result of the Stipulation, SCTC withdrew its intervention in the Docket. Tel-Save offered the Stipulation as a Hearing Exhibit (Hearing Exhibit No. 1) and requested Commission approval of the Stipulation. The Stipulation provides the following:

(1) The SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Tel-Save if the

Commission makes the necessary findings to grant the Certificate and if all stipulated conditions are met;

(2) Tel-Save agrees that any Certificate granted by the Commission will authorize Tel-Save to provide service only to customers located in non-rural local exchange company ("LEC") service areas except as otherwise provided;

(3) Tel-Save agrees that it is not requesting the Commission to find whether competition is in the public interest for rural areas;

(4) Tel-Save agrees that it will not provide local service, by its own facilities or otherwise, to any customer in a rural incumbent LEC's service area, unless and until Tel-Save provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Tel-Save also acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause;

(5) Tel-Save agrees that if, after Tel-Save gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the

rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then Tel-Save will not provide service to any customer located within the service area in question without prior and further Commission approval;

(6) Tel-Save acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures and guidelines do not conflict with Federal or State law;

(7) Tel-Save and the SCTC agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and that the stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled; and

(8) Tel-Save agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

This stipulation is consistent with our decision in Order No. 96-494 (Docket No. 96-073-C). It was signed voluntarily by both the SCTC and Tel-Save, was filed with the Commission prior to the hearing in this matter, and was made a part of the record at the hearing. We therefore approve the stipulation.

In support of its Application, Tel-Save presented Mary Kennon, Director of Customer Care for Tel-Save, to testify. The purpose of Ms. Kennon's testimony was to describe the nature of Tel-Save's proposed service offering in South Carolina, and to demonstrate Tel-Save's financial, managerial, and technical ability to provide the telecommunications services for which Tel-Save seeks authority.

DISCUSSION

S.C. Code Ann. §58-9-280 (Supp. 1996) provides that the Commission may grant a certificate to operate as a telephone utility ... to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, Tel-Save's Application, and the evidence presented at the hearing, the Commission finds and concludes that the Certificate sought by Tel-Save should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. §58-9-280 (Supp. 1996) and the evidence presented at the hearing which relates to that criteria:

(1) The Commission finds that Tel-Save possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1996). To demonstrate Tel-Save's technical qualifications, Ms. Kennon testified that Tel-Save is currently certified and provides interexchange telecommunications service in South Carolina. Ms. Kennon stated that Tel-Save is a Pennsylvania

corporation, that Tel-Save provides interexchange services in all states, except Alaska, and that Tel-Save is currently in the process of obtaining approvals to provide competitive local exchange services in all fifty (50) states. Currently, Tel-Save is authorized to provide local exchange service in Florida, Kentucky, Massachusetts, Montana, New Jersey, New York, North Dakota, Wisconsin, Rhode Island, and the District of Columbia. Also, Ms. Kennon testified that Tel-Save has never had an application for authority denied.

Concerning Tel-Save's managerial qualifications, Ms. Kennon testified that Tel-Save's personnel represent a broad spectrum of business and technical disciplines, possessing many years of individual and aggregate telecommunications experience. Regarding Tel-Save's financial resources, Ms. Kennon offered that Tel-Save has the financial ability to provide the services sought by its application. Ms. Kennon testified that Tel-Save reported sales of approximately \$168 million with net income of approximately \$14 million for the nine months ended September 30, 1996. No other party offered any evidence in opposition to Ms. Kennon's testimony. Based on the undisputed evidence of the record, the Commission finds that Tel-Save possesses the technical, financial, and managerial resources sufficient to provide the services requested.

(2) The Commission finds that Tel-Save will provide services that will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1996). Ms. Kennon testified that

Tel-Save seeks to provide local exchange telecommunications services. Ms. Kennon specifically stated that Tel-Save will comply with all applicable rules, policies, and statutes applicable to the offering of those services and that Tel-Save fully intends to meet the Commission's service standards. Furthermore, Ms. Kennon stated that Tel-Save will make certain changes to its tariff to bring the tariff into compliance with Commission Rules and Regulations. No party offered any evidence to dispute Ms. Kennon's testimony. Based on the undisputed testimony from Ms. Kennon, the Commission believes, and so finds, that Tel-Save will provide telecommunications services which will meet the service standards of the Commission.

(3) The Commission finds that Tel-Save's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1996). Ms. Kennon stated that Tel-Save service offerings will not adversely impact the availability of affordable local exchange service. Ms. Kennon offered that certification of Tel-Save will provide increased customer choice, improved quality of service, and heightened opportunities to obtain improved technology in homes and businesses. No party offered any evidence that the provision of local exchange service by Tel-Save would adversely affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by Tel-Save will not adversely impact affordable local exchange service.

(4) The Commission finds that Tel-Save will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1996). Ms. Kennon testified that Tel-Save will comply with the Commission's universal service requirements. No party disputed Ms. Kennon's testimony. Based on the undisputed evidence of record, the Commission finds that Tel-Save will participate in support of universally available telephone service at affordable rates.

(5) The Commission finds that the provision of local exchange service by Tel-Save "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996). Ms. Kennon offered that approval of Tel-Save to provide services will benefit consumers by increasing customer choice and by increasing efficiency to the State's telecommunications infrastructure through greater reliability of services and an increase in competitive choices. Ms. Kennon's testimony was undisputed as no party offered any evidence that approval of Tel-Save's Application would adversely impact the public interest. Therefore, the Commission finds that approval of Tel-Save's Application for a Certificate to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996).

Therefore, based on the findings above, the Commission finds and concludes that the Certificate sought by Tel-Save should be granted.

IT IS THEREFORE ORDERED THAT:

1. The Application of Tel-Save for a Certificate of Public Convenience and Necessity to provide resold and facilities-based local exchange telecommunications services in the State of South Carolina is approved.

2. The Stipulation filed by Tel-Save and the SCTC is approved by this Commission, is binding upon Tel-Save and the SCTC, and shall be implemented as set forth in the Stipulation. We therefore make no findings or conclusions regarding competition in the rural areas of South Carolina. Tel-Save shall conduct its operations in compliance with the Stipulation until further Order of the Commission.

3. The amendment to the Application wherein Tel-Save withdrew the use of its trade name is approved. Tel-Save shall not market or use the trade name of "The Phone Company" in South Carolina.

4. Tel-Save shall file, prior to offering local exchange services in South Carolina, a final tariff of its service offerings. The final tariff shall include the modifications and changes as proposed by the Commission Staff and to which Tel-Save agreed.

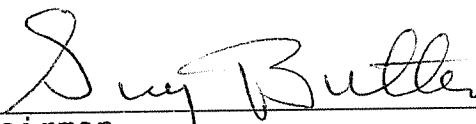
5. Tel-Save shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, Tel-Save shall provide to the

Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Tel-Save shall file with the Commission the names, addresses, and telephone numbers of these representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, Tel-Save shall promptly notify the Commission in writing if the representatives are replaced. Tel-Save is directed to comply with all Commission regulations unless expressly waived by the Commission.

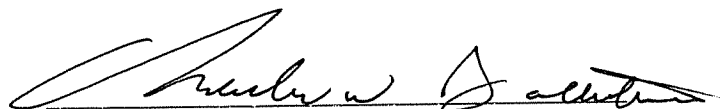
6. Tel-Save shall conduct its business in accordance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

7. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

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ATTACHMENT A

INFORMATION OF THE AUTHORIZED UTILITY REPRESENTATIVES
FOR INTEREXCHANGE, LOCAL AND AOS COMPANIES

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and
maintain with the Commission the name, title, address, and
telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by

Signature

If you have any questions, contact the Consumer Services
Department at 803-737-5230